

Public health preparedness

## Bioterrorism: How Texas Plans to Respond

Recent cases of anthrax bacteria being sent through the mail — and fears that terrorists could cause an outbreak of a highly contagious disease like smallpox — have focused attention on whether Texas' public health system can meet the challenges posed by a potential biological attack.

Texas' readiness for such an attack depends mainly on the Texas Department of Health (TDH) and its Biological Emergency Response Team. The State Emergency Management Plan designates TDH as the lead agency in a bioterrorist emergency, responsible for detecting and investigating disease outbreaks and communicating with partner agencies. Because TDH has responded often in the past to natural biological threats, such as meningitis and salmonella, procedures for responding to an outbreak are in place. However, a bioterrorist attack could be much larger in scope.

Following the September 11 terrorist attacks on the World Trade Center and the Pentagon, Gov. Rick Perry issued an executive order

creating the Task Force on Homeland Security. The governor charged the 18-member task force, chaired by Land Commissioner David Dewhurst, with assessing the state's readiness for a terrorist attack and with recommending improvements. The task force has met twice and submitted an initial list of recommendations.

The Senate Health and Human Services Committee at its October 11 hearing questioned TDH about its

preparedness for a bioterrorist attack in Texas. In response, TDH laid out a list of funding priorities, totaling \$12.1 million for the current biennium, to improve preparedness. On November 9, the security task force recommended granting TDH's budget request. Funding likely would come from transfers within the health and human services agencies' current operating budgets.

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## TxDOT's Cash Management Scrutinized

The Texas Department of Transportation (TxDOT) has taken the unusual step of temporarily suspending some new contracts for road projects because of a cash shortage in the State Highway Fund, known as Fund 6. The move coincides with plans by the State Auditor's Office (SAO) to examine TxDOT's fund management procedures early next year.

TxDOT is one of the few state agencies with a revenue source dedicated by the Texas Constitution. The agency administers Fund 6 for itself and for the Department of Public Safety (DPS). TxDOT's biennial appropriation exceeds \$10.2 billion, and its fiscal 2002 operating budget

exceeds \$4.75 billion. However, recent dips in the highway fund balance prompted TxDOT officials to curtail contracting. This has happened only three times in the past 30 years, according to Michael Behrens, the agency's newly appointed executive director.

"We're taking steps ... to get that balance in line," Behrens testified October 29 before the Senate State Affairs Committee. He noted that while TxDOT has suspended some projects — possibly for only a few months until the fund balance improves — the agency has not canceled any projects.

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*(Bioterrorism, from page 1)*

## Response plan

Texas lawmakers added the State Emergency Management Plan to the Government Code (chapter 418) in 1987. This legislation created an emergency management division within the Governor's Office and directed that division to prepare and keep current a comprehensive plan to be implemented in the event of a disaster.

If a bioterrorist attack occurred in Texas, TDH would be responsible for detecting and investigating the epidemic, communicating with partner agencies in all levels of government, and implementing the emergency management plan. The Department of Public Safety (DPS) would be the lead agency in the event of a nonbiological terrorist attack, such as a chemical attack with nerve gas or another method, such as a bombing.

Detecting and investigating an epidemic depends on recognition and reporting of cases, usually by health professionals such as emergency-room physicians or laboratory technicians. One drawback is that an individual physician may never have seen a disease unleashed by a biological attack. For example, in one of the recent anthrax cases in Washington, D.C., a postal worker told the 911 operator that the worker's physician had diagnosed his symptoms as dehydration.

On October 17, TDH issued anthrax threat guidelines to all physicians in Texas outlining the signs and symptoms, so front-line health-care professionals are alert for it. However, other diseases could be unleashed that TDH has not addressed specifically. Also, the upcoming flu season could produce a multitude of patients presenting flu-like symptoms that could mask an outbreak of another disease.

Once a physician diagnoses a patient or a lab finds a positive sample of one of 63 diseases, they must report the disease occurrence to TDH (Health and Safety Code, chapters 81, 84, and 87). Among the diseases that must be reported are AIDS, anthrax, botulism, chickenpox, gonorrhea, hantavirus infection, malaria, mumps, and yellow fever. Depending on how communicable the

disease, some must be reported immediately by a toll-free telephone number, while others may be reported within one week by sending in a form. TDH has stated that reporting by physicians is quite poor, while labs are better about reporting. Even though failing to report is a Class B misdemeanor, punishable by up to 180 days in jail and/or a maximum fine of \$2,000, TDH does not enforce the requirement, but rather focuses on improving the reporting system and educating health professionals on the importance of reporting. The agency estimates that it receives half of all paper reports by regular mail.

TDH compiles disease reports by using the National Electronic Disease Reporting System (NEDS), a data management system funded by the federal Centers for Disease Control and Prevention (CDC). Also, health officials may send samples taken from patients and the environment to one of the six laboratories in Texas that have high biosafety level designations. These labs, in El Paso, Lubbock, Dallas, San Antonio, Houston, and Austin, are designated BL3 (biosafety level 3, on an ascending scale of 1 to 4). Each of these labs can confirm diagnosis of a disease. The TDH lab in Austin has a light cycler instrument that can perform a rapid nonculture diagnostic test that allows scientists to confirm a disease within hours and in trace quantities. The other labs do not have this machine and may take longer to confirm or may miss minute amounts of materials.

Currently, 57 epidemiologists work at TDH. However, the agency estimates that only six have experience with infectious disease that they could apply to bioterrorism with minimal additional training, and only two have direct experience with bioterrorism. When a disease outbreak is detected, an epidemiologist is sent to evaluate common exposures and determine the source. If an outbreak were attributed to a bioterrorist attack, TDH would contact DPS to implement security measures and would communicate with local and national health organizations (including the CDC) to coordinate efforts.

TDH would use the state Health Alert Network (HAN), established in 1999, to facilitate communication among health organizations. The HAN uses fax, e-mail, and pagers to alert local authorities of a health threat rapidly and to receive reports back from them. Because the network is still in a building phase, however, not all

## Detecting a Manmade Disease Outbreak

A 1996 investigation of a suspicious outbreak of dysentery in Dallas illustrates how Texas health officials might identify, treat, and investigate acts of bioterrorism. Officials of the Texas Department of Health (TDH), Dallas County Health and Human Services, and the federal Centers for Disease Control and Prevention described the investigation in the *Journal of the American Medical Association*, August 6, 1997.

One morning in October 1996, lab workers at a large medical center in Dallas received an e-mail inviting them to eat blueberry muffins and doughnuts in the breakroom. Over the next few hours, 12 workers ate muffins or doughnuts from boxes of commercially prepared pastries. At around nine o'clock that evening, three of the workers began to experience severe gastrointestinal illness, and over the next 31 hours, nine additional workers reported similar symptoms. Eleven of these patients were examined by physicians, while one consulted with a physician by telephone. Eleven received ciprofloxacin, a broad-spectrum antibiotic, while the remaining one received a homeopathic medication. Four of the patients were hospitalized.

After stool cultures from these patients revealed *Shigella dysenteriae*, a relatively rare organism that causes bacillary dysentery, local emergency departments and infectious disease physicians were alerted and urged to report any additional cases. An investigating

team from TDH interviewed lab staff who had worked during the morning and night shifts. After assessing the patients' demographics, food histories, social activities, and signs and symptoms of illness, the team found that each of the 12 patients had eaten a muffin or doughnut from the breakroom.

The TDH team learned that the medical lab had stored a stock of *S. dysenteriae* in a freezer for use as a control in certain lab tests. The culture was stored in a vial containing 25 porous beads. Though the lab reported that the *S. dysenteriae* stock never had been used, the vial was found to contain only 19 beads. Investigators also found that the breakroom door was locked and was accessible only to those who knew the code, and that the supervisor whose computer was used to send the invitation e-mail had been away from the office at the time the e-mail was sent.

The team collected stool samples, specimens of the breakroom food, and some of the stock of *S. dysenteriae* from the storage freezer and sent them to TDH's Austin lab for analysis. Tests confirmed that the *S. dysenteriae* from all three sources was identical. Criminal investigation later revealed that a coworker at the lab had tainted the muffins and doughnuts and had encouraged other lab workers to eat them. The perpetrator later confessed and served jail time for the crime.

entities have received the equipment or software they need to participate. During the current fiscal year, local health departments are expected to receive the needed computers and Internet access.

TDH's main role in preparing the state for a bioterrorist attack is to create a framework for communication and analysis. The chain of communication relies on people who interact with the public, such as physicians, lab

technicians, and the local health department, for rapid detection and implementation of a response. If local resources were overwhelmed, the regional health departments — and TDH and federal agencies, if necessary — would provide support. For example, if anthrax were discovered and the local hospitals and clinics did not have enough ciprofloxacin or doxycycline antibiotics to treat patients, TDH would divert these medications from its clinics that treat sexually transmitted

disease and tuberculosis. If TDH ran out of these drugs, it would request additional stocks from the CDC.

## Emergency funding request

With the aim of strengthening its capabilities in communications and analysis in the event of a biological attack, TDH assembled a list of funding priorities totaling \$12.1 million and an additional 59 full-time employees (FTEs) for fiscal 2002-03. The agency did not identify possible sources for these funds, but they could come from within health and human services agencies' operating budgets under the authority of the Health and Human Services Commission, from additional funds designated by the governor, or from federal sources. The agency's requests fall into these categories:

- enhancing disease detection and response (\$3.9 million, 28 FTEs);
- expanding biological laboratory capacity (\$1.9 million, 10 FTEs) and chemical laboratory capacity (\$1.0 million, two FTEs);
- improving surveillance of infectious diseases (\$1.6 million, six FTEs);
- expanding the HAN (\$2.8 million, eight FTEs); and
- establishing an Office of State Epidemiologist (\$0.9 million, five FTEs).

**Detection and response.** TDH would use the \$3.9 million requested under this category to establish and train epidemiology response teams in each of the eight public health regions. TDH asked for these funds as an exceptional item for its fiscal 2002-03 budget, but lawmakers did not fund the item. Each team would comprise an epidemiologist, a public health nurse, and a public health technician. Some regions already have an epidemiologist and would need only the other health professionals. TDH says a team in each region would permit rapid response in the case of a suspected attack and active surveillance at other times.

Reliance on "passive" surveillance (analysis of reported data in the wake of a disease outbreak), according to TDH, can result in failure to detect outbreaks of certain diseases such as hantavirus and

Lyme disease. Active surveillance, or routine collection of diagnostic information directly from health facilities, yields more reliable data about the prevalence of disease in a community and would enable TDH to detect more outbreaks with greater accuracy. This request also includes funding for additional laboratory capacity (not in other categories) to run the higher number of tests that the teams would use in surveillance.

**Laboratory capacity.** TDH could use the six BL3 labs to detect and diagnose a bioterrorist agent. TDH's \$1.9 million request for biological laboratory capacity would fund improvements at two additional laboratories to add them to the network. Those labs likely would be the South Texas Hospital in Harlingen and the city health department's lab in Fort Worth. The funding also would help purchase light cycler instruments and other advanced lab equipment for all labs in the network to match the capabilities of the Austin lab.

TDH requests \$1 million in additional funding for laboratory capacity to prepare for chemical attacks. No lab in Texas can test human samples for exposure to a chemical weapon such as nerve gas. If such an attack were to occur in the state, all human samples would have to be sent to a New Mexico lab or to the CDC in Georgia. This funding would equip and staff TDH's Austin lab to process chemical samples.

**Disease surveillance.** TDH seeks \$1.6 million to improve surveillance of infectious diseases by making the NEDS web-based, enabling physicians and labs to submit disease reports online. As a compilation of surveillance data, NEDS is only as good as the data it receives. Currently, about half of all infectious disease reports in Texas are received through the mail, often bundled into weekly mailings from labs. TDH says a web-based reporting system would provide more timely and complete information and would reduce paperwork for hospitals, physicians' offices, and labs. The funding would be used to integrate the data for better analysis and to hire analysts to monitor the database. TDH also would use part of the funds to train state and local public health workers and physicians in basic surveillance and epidemiology. The agency has a two-day course that it can deploy across the state to strengthen the "front line" in disease detection.

**Health Alert Network.** TDH requests \$2.8 million to improve the HAN and expand its reach across the state. The agency has communications in place with 65 local health departments, but more than 70 other local departments are not on the network. Though the public health regions could communicate with health departments that are not a part of the HAN in the event of a disease outbreak, expanding the network's reach would ensure rapid dissemination of information, according to TDH. The request includes money for a pilot project for a coordinated community response, which would connect police, health officials, firefighters, and other emergency responders with a single communications system. Salt Lake City is using a system like this in preparing to host the winter Olympics in 2002.

**Epidemiologist office.** The state epidemiologist also serves as chief of TDH's Bureau of Epidemiology. TDH requests \$900,000 to establish an Office of State Epidemiologist within the agency, which would focus solely on coordinating surveillance and epidemiological activities. The aim would be to help local governments, hospitals, and other parties in the "field" enhance their emergency response plans to include bioterrorism preparedness.

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*TDH's request for emergency funding focuses on strengthening its capabilities in communications and data analysis.*

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## Funding prospects

Meeting in Houston on November 9, the Task Force on Homeland Security recommended that TDH receive the funds it requested. The health and human services commissioner has the authority to transfer funds from one health and human services agency to another. Gov. Perry has voiced support for the funding, but Lt. Gov. Bill Ratliff has stated that he would like to evaluate TDH's request in light of the needs for all agencies involved in the readiness effort.

Additional funding could become available from the federal government as a part of a bioterrorism package. The U.S. Senate recently held hearings to evaluate how much money states would need to become prepared to respond to a bioterrorist attack.

It is unclear whether eventual federal legislation will include funding for public health system improvements. Originally, the Kennedy-Frist bill (S.171) would have devoted the bulk of proposed funding, \$635 million, to improving the ability of state and local public health agencies to detect and respond to bioterrorist incidents. Recent reports suggest that any federal appropriation may be much smaller than originally expected and that the bulk of the funds would go toward smallpox vaccines, antibiotics, and the development of federal bioterrorism teams.

## Local readiness

TDH's emergency funding request focused mainly on statewide preparation and response activities. The state system relies on local individuals and organizations to identify an attack, but little is known about states of readiness at the local level, especially in rural areas.

In 1999, the U.S. Department of Justice (DOJ) funded a survey of local preparedness for terrorism. The survey included a 15-page questionnaire from the CDC on local public health needs and readiness for a bioterrorist attack. In Texas, the survey was administered during 2000-2001 by the Texas Engineering Extension Service (TEEX), part of the Texas A&M University System.

The survey was designed as the basis for grants for equipment related to decontamination, communication, personal protection, and detection for local communities to improve their readiness for terrorism. TEEX will allocate \$11.7 million in DOJ grant funds in Texas on the basis of the survey results. Because the survey evaluated law enforcement, fire, emergency medical services, and hazardous materials needs as well as medical needs, the impact of the grants on public health is expected to be small in the near term. Although local entities may receive little or no funding for public health preparedness, the process of completing the survey may have made these entities more aware of the services and resources they lack.

## Transmission and Treatment of Selected Biological Agents

Disease	Transmission	Incubation period	Signs/symptoms	Treatment
Anthrax	Aerosolized or solid form	1-12 days for cutaneous (skin) form, 1-7 days for inhalational form	Fever, cough, fatigue, muscle aches, vomiting or diarrhea, or skin sores, especially on face, arms, or hands	Multidrug regimen of antibiotics such as ciprofloxacin and doxycycline
Botulism	Aerosolized or used to sabotage food supplies	1-5 days	Weakness, dizziness, dry mouth, blurred vision, weakened extremities, respiratory failure due to paralysis of respiratory muscles	Antitoxin may be effective in aerosol exposure
Brucellosis	Aerosolized or used to sabotage food supplies	3-60 days	Fever, headache, chills, weakness, may persist for 3-6 months	Doxycycline or other antibiotic, plus an antibacterial agent
Cholera	Drinking water or food	4 hours-5 days	Mild diarrhea or sudden onset of vomiting and abdominal distension followed by profuse diarrhea	Rehydration, electrolyte replacement, antibiotic therapy
Ricin intoxicification	Aerosolized or used to sabotage food supplies	4-8 hours	Depending on dose and route of exposure, may include fever, cough, nausea, chest tightness, followed by sweating, pulmonary edema, and cyanosis (skin discoloration)	Supportive treatment such as acetaminophen for fever and cough suppressants
Variola virus (smallpox)	Aerosolized or spread onto objects	7-17 days	Malaise, fever, headache, backache, appearance of numerous lesions on face, extremities, palms, and soles	Antiviral agents are under investigation
Staph B intoxicification	Aerosolized or used to sabotage food supplies	1-6 hours	High fever, chills, headache, nonproductive cough	Supportive treatment such as acetaminophen for fever and cough suppressants
Tularemia	Aerosolized	2-10 days	May include typhoidal, pneumonic, or glandular symptoms	Streptomycin or other antibiotic
Pneumonic or bubonic plague	Aerosol or infected fleas	2-3 days for pneumonic, 2-10 days for bubonic	High fever, chills, headache, malaise, myalgia (muscle pain), cough	Streptomycin or other antibiotic

Source: Texas Department of Health.

Under Government Code, sec. 418.106, local entities must prepare and keep current an emergency management plan that must include economic stabilization plans and security measures in the event of a disaster. Local entities also must prepare and distribute a written statement of responsibilities for all groups involved and a list of all resources. A bill in the 77th Legislature, SB 94 by Nelson, would have directed local entities to include manmade disasters, such as a bioterrorist attack, in their emergency

management plans. As filed, the bill would have required about \$400,000 in funding for three FTEs at TDH to develop expertise in responding to bioterrorism and to advise local governments. The bill passed the Senate on the Local and Uncontested Calendar but died on the House General State Calendar late in the session.

— by Kelli Donges

## Speaker's Interim Charges to House Committees

House Speaker James E. "Pete" Laney on November 5 issued his charges to House committees to conduct interim studies of issues likely to be considered by the 78th Legislature when it convenes in January 2003.

Several House committees will study issues related to acts of terrorism, including agricultural chemicals and fertilizers and aerial chemical spraying (Agriculture and Livestock); state civil law revisions (Civil Practices); state criminal law revisions (Criminal Jurisprudence); security of pipelines, refineries, oil and gas production facilities, and other hydrocarbon processing facilities (Energy Resources); security of hazardous and radioactive materials and public drinking water systems (Environmental Regulation); protection of water resources (Natural Resources); potential use of biological agents and vaccine response (Public Health); state and local emergency planning and preparedness for major disasters, emergency warning systems, and large-scale evacuation planning (Public Safety); security of state-owned buildings, public and private communications systems, and electric generation and transmission facilities (State Affairs); and security of general aviation, rail, and truck transportation (Transportation).

Other charges to the House standing and select committees are summarized briefly below. For more details, see <http://www.house.state.tx.us/house/interim/charges/index.htm>.

**Agriculture and Livestock:** effects of exotic pests on Texas agriculture; agricultural community access to capital markets (jointly with Financial Institutions); potential benefits of no-till farming; federal farm legislation and its impact on Texas producers.

**Appropriations:** impact of economic conditions on state budget and revenues; agency performance review and possible relocation of programs outside of Travis County; increasing use of bonds and other debt financing, including debt-issuance guidelines in HB 2190; review of state-administered health insurance programs (jointly with Insurance); fiscal impact of allowing state and school district employees to work while drawing retirement benefits, including "retiring in place" (jointly with Pensions and Investments); reducing shortage of teachers, principals, and other educational professionals (with Public Education).

**Business and Industry:** binding arbitration in consumer agreements in which consumers have little bargaining power; workers' compensation system performance in timely returning injured workers to employment; recent Business Organizations Code recodifications; fiscal condition of workers' compensation subsequent injury fund; regulating sale of caskets.

**Civil Practices:** product liability practices, such as sealing records and agreements not to disclose information, that may be detrimental to public health and safety; procedures such as arbitration, mediation, and other alternative dispute resolution that limit judicial review; appellate court decisions that invalidated legislation, failed to implement legislative intent, or suggested specific legislative action.

**Constitutional Revision (Select):** public sentiment for constitutional revision, particularly Art. 4 (executive branch) and Art. 7 (education); possible obsolete provisions.

**Corrections:** community supervision (probation) caseloads; alternative sentencing to residential facilities; impact of fee assessments and ability to pay on probation and parole; health care delivery in prison system; staffing and training program impact on inmates and prison staff.

**County Affairs:** implementation of county financial data advisory committee (HB 2869); revenue sources available to counties and varying local tax efforts; grant assistance to counties for mandatory duties; implementation of county fee and fine collection programs (SB 732).

**Criminal Jurisprudence:** cooperation with Mexican states to reduce drug trafficking; elimination of ambiguity about legality of "eight-liners"; identity theft; discrepancy in statistics on reported sexual assaults in Texas.

**Economic Development:** incentives and potential funding sources to attract business expansion and relocation; effect of Development Corporation Act of 1979 development taxes in promoting job creation and business development; status of unemployment compensation trust fund balances.

**Elections:** recruitment, retention, and education of election-day workers; ballot counting procedures when

tabulation errors made; political reporting laws; increasing voter participation and election process efficiency.

**Energy Resources:** natural gas price volatility; pipeline safety regulation; production methods in East Texas oil field.

**Environmental Regulation:** lost or stolen radioactive material; border environmental issues; vehicle inspection and maintenance programs and low-income repair assistance; implementation of TNRCC sunset act (HB 2912) and Clean Air Act compliance (SB 5).

**Financial Institutions:** effect of Mortgage Broker Licensing Act on mortgage lending industry; subprime lending market; financial institution compliance with federal consumer-privacy requirements; agricultural community access to capital markets (jointly with Agriculture and Livestock); reporting of pawnshop transaction data to law enforcement agencies.

**General Investigating:** proliferation of special-purpose districts; evidence testing standards and procedures by Texas Department of Public Safety crime lab; State Board of Education management of Permanent School Fund.

**Higher Education:** course credit transfer between higher education institutions; student performance and participation gaps and preparation for higher education; differing performance measures between rural and urban higher education institutions and between community colleges and four-year institutions; negative or declining fund balances of institutions; desirability of state-funded and -operated chiropractic program; 10-year review of impact of South Texas/Border initiative; implementation of post-tenure faculty review (SB 149, 75th Legislature) and faculty workload policies.

**Human Services:** Congressional reauthorization of TANF, food stamp, and child care development fund block grant programs; promotion of asset development and welfare independence in low-income households and difficulties caused by asset-test standards; Texas Rehabilitation Commission eligibility determinations for social security disability benefits; suicide prevention program; DHS staff workloads; compliance with legislative direction on *Olmstead* issues of allowing capable people to live outside of institutions.

**Insurance:** homeowner insurance coverage of toxic mold claims; medical liability insurance market; review of state-administered health insurance programs (jointly with

Appropriations); review of HB 2159, regulating credit life insurance rates, and Texas Department of Insurance efforts to enforce prompt payment of “clean claims.”

**Judicial Affairs:** Uniform Durable Power of Attorney Act; judicial redistricting plan; appellate court briefing clerks’ ethical conduct, conflict, and disclosure; feasibility of statewide sexual assault prevention program; Texas Judicial Council/Office of Court Administration assessment; electronic filing of court documents; judicial campaign financing, accountability, immunity, and candidate qualifications; uniform schedule of civil court fees.

**Juvenile Justice and Family Issues:** attorneys and guardians *ad litem* roles in parent-child relationship suits; juvenile offense cases under progressive sanctions guidelines; gestational agreements; problems with student truancy, dropouts, and disruptive behavior (jointly with Public Education).

**Land and Resource Management:** urban sprawl into formerly rural areas; ownership and maintenance of rural roads; placement and use options for dredged material from Gulf Intracoastal Waterway (HB 2684); implementation of new Office of Rural Community Affairs (HB 7).

**Licensing and Administrative Procedures:** licensing and regulation of electricians and building contractors; laser regulation; regulation of drain cleaners (HB 1505).

**Natural Resources:** implementation of SB 2, water resources development and management; implementation of SB 312, continuing Texas Water Development Board; oversight of Texas Water Advisory Committee; water permitting for environmental needs; development of groundwater management areas; non-operational groundwater conservation districts.

**Pensions and Investments:** fiscal impact of allowing state and school district employees to work while drawing retirement benefits, including “retiring in place” (jointly with Appropriations); membership in Employees Retirement System law enforcement program; combining judicial retirement system Plans I and II; retirement options for state employees transferred by law to local government employment.

**Public Education:** reducing shortage of teachers, principals, and other educational professionals (jointly with Appropriations); implementation of HB 6, regulating charter schools, including funding eligibility of “virtual



schools” with home-schooled students; implementation of student promotion assessment (SB 103, 76th Legislature), including time spent preparing students in test-taking skills and motivational events rather than classroom instruction; problems with student truancy, dropouts, and disruptive behavior (jointly with Juvenile Justice and Family Issues); in-school GED program changes made by SB 1432; flat performance on college-entrance SAT and ACT versus improving performance on TAAS test; implementation of distance education pilot program (SB 975).

**Public Health:** health care infrastructure, including regional or local differences affecting health care delivery to specific groups; access to programs and treatment options for mental illness and substance abuse; health and preventative care without regard to patient’s immigration status; regulation of complementary and alternative medicines; health-related licensing agency procedures for complaints and investigations, including use or abuse of patient information; restructuring Texas Department of Health, including childhood immunization program; implementation of pharmaceutical legislation enacted by 77th Legislature.

**Public Safety:** weapons possession laws, including concealed handguns, and local, state, and federal interaction; drug use by teens and young adults; local law enforcement use of advanced technologies, including high-tech surveillance.

**State Affairs:** deployment of advanced telecommunications systems and availability of broadband service, including barriers to affordable access in rural and inner-city communities; performance of Telecommunications Infrastructure Fund in extending services to underserved client groups; siting of electric transmission lines; transfer of functions of General Services Commission to Texas Building and Procurement Commission and Department of Information Resources.

**State, Federal and International Relations:** potential local impact of military base closings and realignment; tourism in rural areas; border crossing traffic efficiency; Texas music museum; review of Texas Legislative Medal of Honor rewarding service by Texas veterans; oversight of state veterans medical facilities and implementation of state veterans cemetery system.

**State Recreational Resources:** water safety regulation; training and duties of game wardens; removal of non-game fish from game fish populations; waterway maintenance, including management of aquatic vegetation and vehicular traffic; taxation of real property under wildlife management plan (HB 3123).

**Teacher Health Insurance (Select):** implementation of new public school employee health insurance program, including affordability and continuance and expansion of the program.

**Transportation:** long-term mobility financing options, including revenue source for new Texas Mobility Fund; low-bid versus design-build contracting methods; level of service for mobility; truck transportation at Mexican border, including checkpoint security and efficiency, safety and weight regulations, and NAFTA impact on commercial vehicle inspections; need for general aviation facilities; corridors or special routing for long-haul traffic.

**Urban Affairs:** state and local housing authority role in increasing access to housing assistance; special assistance to community housing development organizations and nonprofit housing entities; cooperative efforts among public employees and employers, including various forms of bargaining; targeting single-family mortgage loans to underserved populations; implementation of new Section 8 home ownership initiatives.

**Ways and Means:** appeals of appraised values for property taxation and Comptroller’s Office process for reviewing and adjusting values by appraisal districts; dedicated uses of local sales and use taxes and hotel occupancy taxes; Internet taxation, including economic impact on state and local tax revenue, proposed federal legislation, and Texas participation in multistate administration of sales taxes; effects of franchise tax credits in SB 441, 76th Legislature.

Speaker Laney and Lt. Gov. Bill Ratliff also have appointed joint interim committees to study electric utility restructuring, health services, higher education excellence funding, long-term care, private activity bonds, and public school finance.

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*During the interim, a number of House committees will study issues related to acts of terrorism, as charged by Speaker Laney.*

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**(TxDOT, from page 1)**

TxDOT officials are asking their engineers who supervise the state's 25 highway districts to recommend projects for suspension, focusing on those that are fully state-funded. According to TxDOT, only projects that are months or years away from startup — not those already under way — will be suspended, and then only by mutual consent of TxDOT and contractors. Although delays could last through the spring of 2002, TxDOT officials have pledged that projects will be completed on schedule. They note that some contractors actually prefer to delay until they can commit more resources, rather than risk missing deadlines and incurring penalties. In the meantime, TxDOT is withholding \$250,000 in employee merit pay raises and promotions (at least until December) and is building no new facilities, subject to ongoing review.

**Cash-flow bind**

Cash-flow problems surfaced in early August when two daily newspapers reported that TxDOT was holding up engineering design contracts for some pending projects. TxDOT officials say that because design work was being completed faster than expected, the agency realized in May that it might come up short of cash and shifted \$50 million from its capital budget (used for building, maintaining, and repairing TxDOT facilities and buying equipment) to supplement its \$185 million appropriation for highway design. Nevertheless, July design-contract billings exceeded cash on hand. Design contracting resumed in mid-August. TxDOT contracts about 70 percent of its engineering design work to outside consultants; state law requires that at least 35 percent be performed by the private sector.

In September, a similar situation arose with other billings, primarily from highway construction contractors and vendors. According to SAO, TxDOT's average lowest daily balance in Fund 6 during the first half of fiscal 2001 was \$67 million. On October 5, however, the daily balance, which was as high as \$450 million a few years ago, fell to \$4 million before receipt of a \$170 million revenue deposit. The following week, at contractors' suggestion, Behrens, then assistant executive director for engineering operations, began seeking input from district

engineers on which pending projects might be put on hold. The agency's target minimum daily balance is \$75 million by January 2002.

TxDOT also has contacted DPS about the situation. DPS officials say they have experienced no adverse effects on their budget, although the potential exists. More than three-quarters of the DPS budget comes from Fund 6.

The *Austin American-Statesman's* October 16 report on the slowdown spurred a meeting of TxDOT officials and staff representing the lieutenant governor, House speaker, and Senate Finance and House Appropriations committees. On October 17, the *Houston Chronicle* reported that TxDOT was slated for a special audit of its management of the highway fund. The SAO maintains that the timing was coincidental, as the audit already was in the works.

**Budget issue**

Several factors appear to have contributed to the emerging budget issue. The first relates to TxDOT's method of paying project expenses. The bulk of Fund 6 is revenue from state and federal motor-fuels taxes — monthly deposits of state collections (less 24 percent for public education and 3 percent for refunds) along with reimbursements from federal highway fund allocations. Most of TxDOT's spending is for contracting related to highway construction and maintenance. Contractors bill TxDOT as they perform work. TxDOT pays them and, more often than not, requests 80 percent reimbursement (90 percent for some projects) from the Federal Highway Administration. Reimbursement typically takes only a few days but can take much longer. These funding mechanisms require considerable long-range cash forecasting on TxDOT's part, with projects often extending into more than one appropriations cycle.

In recent legislative sessions, as highway traffic has increased, congestion has worsened, and the number of pending projects has grown, some lawmakers have criticized TxDOT for maintaining high fund balances. Consequently, TxDOT began awarding more contracts and buying more right-of-way, especially for widening segments of the largely two-lane trunk system.

Unreimbursed spending on turnpike projects has been a major drain on TxDOT's cash flow, according to legislative staff involved with the cash-flow situation. From April 2000 through October 2001, TxDOT spent almost \$64 million from Fund 6 (most of it during fiscal 2001) to develop the Central Texas Turnpike Project in and around Austin. The Texas Transportation Commission authorized the outlays under a \$199 million line of credit to the Texas Turnpike Authority (TTA), a TxDOT division. TxDOT is spending \$5 million to \$7 million a month on the four-part project; total spending is expected not to exceed \$90 million.

Once consultants complete all traffic and revenue reports and a credit rating letter is issued, TTA will begin selling bonds for the project, either in its entirety or for each segment. Bond proceeds will be used initially to reimburse Fund 6, either for total project expenditures or for those of each segment, depending on how the bonds are issued. TTA has postponed the bond sales, originally planned for July or August 2001, because of delays in the traffic and revenue reports. TxDOT officials now expect the first bonds to be issued in the spring of 2002. Once Fund 6 has been reimbursed, the remaining bond proceeds will pay for completing the project.

Also, TxDOT officials acknowledge that they overestimated revenue for fiscal 2001 by about \$22 million (one-half of 1 percent), primarily because revenue from motor-fuels taxes and motor-vehicle registration fees failed to meet expectations.

"We now have more projects [ready] than money, so letting [awarding contracts] will not be automatic," said James Bass, TxDOT's finance director. "We're using more outside consultants, getting projects ready faster, and outsourcing more right-of-way acquisition." He said TxDOT has spent down its share of Fund 6 aggressively in response to assertions during recent legislative sessions that TxDOT was maintaining excessive fund balances.

Behrens testified before the Senate State Affairs Committee that TxDOT's budgeting process is subject to

more variables (such as weather) than is that of most state agencies. Nevertheless, some legislative staffers who monitor budgetary matters suggest that TxDOT needs to do a better job of managing contract awards and payments, delay right-of-way acquisition when necessary, and anticipate pressure on the entire budget when spending on preliminary project work exceeds projections.

## Audits and reports

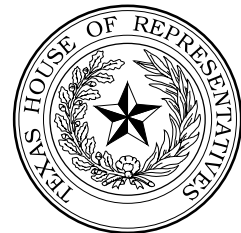
SAO's audit of Fund 6 now is scheduled to begin in January, rather than in June as originally planned. Auditors will examine financial transactions, reporting accuracy, the frequency of lapses, collection timeliness, and compliance with the General Appropriations Act. Although TxDOT has undergone various audits in recent years, Fund 6 itself has not been audited in quite some time. This latest audit was in the SAO staff's proposed work plan before TxDOT's cash-flow problems became known, although the Legislative Audit Committee approved the work plan at about the same time as the disclosure.

Before beginning the audit, auditors will perform a risk assessment of the situation under review. This routine procedure is aimed at determining whether scheduling changes or other changes in the audit are warranted. The scope of the audit is unlikely to change, however, because cash flow is well within its parameters. The goal is to track the money, not determine how well it is being spent.

During the 2001 session, the Legislature amended Rider 41 of TxDOT's appropriation to require monthly revenue reports to the Legislative Budget Board and the Governor's Office. As a result of the recent cash-flow problem, TxDOT now must report monthly on its financial condition to the House Appropriations and Senate Finance committees as well, and Chairman Florence Shapiro has asked that the Senate State Affairs Committee receive the monthly reports also.

— by Patrick K. Graves

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P.O. Box 2910  
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